

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 4:10-CR-96-FL

UNITED STATES OF AMERICA,

v.

DENNIS BRADLEY SUTTON

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ORDER

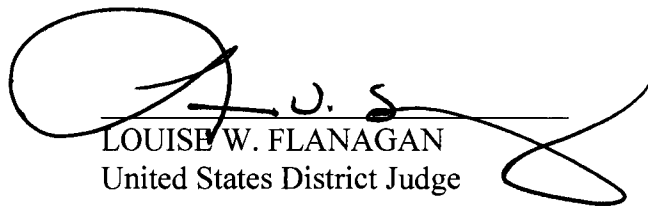
This matter comes before the court upon reversal by the United States Court of Appeals for the Fourth Circuit of that part of the court's judgment entered April 4, 2012, wherein restitution was awarded to Lilitz Mutual in the amount of \$4,034.97 and Eastern Outfitters in the amount of \$1,099.00. No appeal was taken from the court's award to three individual victims, totaling the sum of \$6,200.00. Opinion entered January 24, 2013, affirmed the conviction and other aspects of the court's sentence; however, where under the Victim Witness Protection Act ("VWPA"), the court failed expressly to consider defendant's resources and earning ability, and other financial obligations, order of restitution to the two corporations was vacated, and the case remanded for additional factual findings,

In light of the opinion of the United States Court of Appeals for the Fourth Circuit, having reviewed this case pursuant to its mandate, under the totality of circumstances, the court provisionally finds this defendant without ability to make restitution to Lilitz Mutual or Eastern Outfitters, and as such gives notice to the parties so that if the government would seek to present evidence in furtherance of any restitution award to either of these entities, it shall file a notice with this court on or before March 8, 2013, after which time a hearing will be set.

The court takes note of letter dated February 5, 2013, sent by defendant, made a part of the court's file, wherein he requests not to attend any hearing. Defendant makes reference to ongoing rehabilitation which may be negatively impacted, where he is enrolled in certain prison classes, and would seek to maintain his prison employment to continue making payments to the individuals to whom restitution was awarded. As such, defendant expressly is relieved of any requirement to attend hearing, if requested by the government.

If the time allowed for notice expires with no request for hearing, the clerk is directed to make final the determination upon remand of this court to strike the award of restitution to Lilitz Mutual and to Eastern Outfitters.

SO ORDERED, this 15th day of February, 2013.



LOUISE W. FLANAGAN  
United States District Judge